

# EXHIBIT

2

## PART I

DEFENDANT'S RESPONSE IN OPPOSITION TO  
PLAINTIFFS' MOTION TO COMPEL ANSWERS  
TO INTERROGATORIES, RESPONSES TO  
REQUESTS FOR PRODUCTION AND TO  
COMPEL SUBMISSION TO R.34 INSPECTION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

DISABLED PATRIOTS  
OF AMERICA, INC.,  
A FLORIDA CORPORATION,  
BONNIE KRAMER, INDIVIDUALLY,  
Plaintiffs,

vs.

Case No. 1:07CV06362

TOWN & COUNTRY  
CHICAGO ASSOCIATES, LLC,  
A FOREIGN LIMITED  
LIABILITY COMPANY,  
Defendant.

- - - - -

DEPOSITION OF BONNIE KRAMER

Taken on Wednesday, January 30, 2008, at 2:15 p.m.

At the offices of:

Cefaratti Group

4608 St. Clair Avenue

Cleveland, Ohio

Before Kathleen Davian, a Notary Public

in and for the State of Ohio

Page 2

1 APPEARANCES:  
2  
3 Via telephone  
4 On behalf of the Plaintiffs:  
5 THOMAS B. BACON, by  
6 1515 Grant Street  
7 Hollywood, Florida 33020  
8 (954) 925-6488  
9 Baconlaw@bellsouth.net  
10  
11 Via telephone  
12 On behalf of the Defendant:  
13 Meckler, Bulger & Tilson, by  
14 MICHAEL I. LEONARD, ESQ.  
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17 Chicago, Illinois 60606  
18 (312) 474-7925  
19 Michael.Leonard@mbtlaw.com  
20 ----  
21  
22  
23  
24  
25

Page 3

1 BONNIE KRAMER, of lawful age,  
2 called for examination, as provided by  
3 the Federal Rules of Civil Procedure,  
4 being by me first duly sworn, as  
5 hereinafter certified, deposed and said  
6 as follows:  
7 EXAMINATION OF BONNIE KRAMER  
8 BY-MR.LEONARD:  
9 Q. Ma'am, good afternoon.  
10 A. Hi.  
11 Q. As you know, my name is Mike  
12 Leonard. I represent the defendant.  
13 A. Hm-hm.  
14 Q. And today we're here to take  
15 your deposition by telephone conference.  
16 Okay.  
17 I assume that you had your  
18 deposition taken previously?  
19 A. I have.  
20 Q. Approximately how many times?  
21 A. Twice before.  
22 Q. Can you tell me how long ago  
23 was that?  
24 A. I think the last deposition  
25 was three weeks ago.

Page 4

1 Q. What was the case called in  
2 that case?  
3 A. RTA.  
4 Q. Kramer versus RTA?  
5 A. Correct.  
6 Q. And the other plaintiff in  
7 that case is Disabled Patriots of  
8 America?  
9 A. Yes.  
10 Q. Where is that case pending?  
11 A. In Cleveland, Ohio.  
12 Q. In federal court or state  
13 court?  
14 A. Federal court.  
15 Q. And who are your attorneys  
16 in that case?  
17 A. Tom Bacon and Larry Fuller.  
18 Q. And what firm is Mr. Fuller  
19 with?  
20 A. I'm sorry?  
21 Q. Did you say Larry Fuller?  
22 A. Yes.  
23 Q. And what firm is he with?  
24 A. Fuller, Fuller.  
25 Q. Is that in Cleveland?

Page 5

1 A. No, it's in Miami.  
2 Q. And what's the status of  
3 that case? It's just engaged in  
4 discovery?  
5 A. Yeah, I think so. Ask Tom,  
6 he knows.  
7 Q. And then the other case that  
8 you were deposed in?  
9 A. Crocker Park.  
10 Q. How do you spell that for  
11 the record?  
12 A. C R O C K E R.  
13 Q. That's the defendant?  
14 A. Yes.  
15 Q. And you and Disabled Patriots  
16 of America are the plaintiffs?  
17 A. Correct.  
18 Q. And that's in federal court  
19 in Cleveland?  
20 A. Yes.  
21 Q. And what's the status of  
22 that case?  
23 A. It is resolved.  
24 Q. And what was the resolution?  
25 A. The resolution that they

2 (Pages 2 to 5)

Page 6

1 decided to make the fixes on the  
2 property to make it more accessible.  
3 Q. And who were your attorneys  
4 in that case?  
5 A. Todd Shulby.  
6 Q. Can you spell that for the  
7 record?  
8 A. T O D D, S H U L B Y.  
9 Q. And do you have your  
10 deposition -- do you have copies of your  
11 transcripts from those two cases?  
12 A. I don't have them, no.  
13 Q. Who has them?  
14 A. The court reporter.  
15 Q. Okay. And do you know what  
16 court reporter service you used for  
17 those two depositions?  
18 A. I do not know offhand but I  
19 could -- I have -- obviously have copies  
20 of where it was -- where they're being  
21 stored at home.  
22 Q. And, ma'am, just for the  
23 record, the rules are probably identical  
24 to what you've been through before. But  
25 as you know I ask you verbal questions

Page 7

1 and ask you to give verbal responses.  
2 From time to time Mr. Bacon may make  
3 objections to the questions. Because  
4 it's by telephone, particularly, you  
5 need to wait, let him say whatever he's  
6 going to say, and then unless someone  
7 tells you not to answer the question, to  
8 proceed to answer the question, okay?  
9 A. Yes.  
10 Q. It's also important,  
11 particularly, since it's by phone that  
12 you wait until I finish my question  
13 before you begin to answer it because  
14 otherwise I won't hear what you've said  
15 and the court reporter won't have a  
16 clear record, okay?  
17 A. Yes.  
18 Q. Is there any reason because  
19 of medications, tiredness, any other  
20 reason whatsoever you can't give  
21 complete and truthfully testimony here  
22 today?  
23 A. No.  
24 Q. And you understand you've  
25 been sworn?

Page 8

1 A. Yes.  
2 Q. And if you need a break at  
3 any time and there's not a question  
4 pending, please let me know and we'll  
5 accommodate you, okay?  
6 A. Yes.  
7 Q. Have you taken any  
8 medications in the last 24 hours?  
9 A. Yes.  
10 Q. And what have you taken?  
11 A. I take heart prophylactic  
12 medication every single day.  
13 Q. What medication is that?  
14 A. I take Lipitor. I take  
15 Metoprolol and I take something called  
16 -- I'm blanking. I have another  
17 medication that I take every day.  
18 Q. I'm sorry, what was the last  
19 one?  
20 A. I'm trying to think of the  
21 name of it and I cannot think of the  
22 name of it right now.  
23 Q. How often and what dosage do  
24 you take of Lipitor?  
25 A. I take 10 milligrams of

Page 9

1 Lipitor at bedtime.  
2 Q. At bedtime?  
3 A. Yeah, 10 milligrams.  
4 Q. And the second one, Med --  
5 A. Metoprolol.  
6 Q. You take that how often and  
7 how much?  
8 A. Every morning and I don't  
9 know how much.  
10 Q. And you took that this  
11 morning?  
12 A. Yes, I did.  
13 Q. And that doesn't affect your  
14 ability to testify, right?  
15 A. Not at all.  
16 Q. And the third one, you don't  
17 recall how often you take it and what  
18 dosage?  
19 A. Right, I don't recall.  
20 Q. But I know you don't  
21 remember the name of it but how often  
22 do you take --  
23 A. I take it every morning.  
24 Q. Okay.  
25 A. And I can't tell you the

3 (Pages 6 to 9)

Page 10

1 dosage offhand.  
2 Q. And all three of those are  
3 for your heart?  
4 A. Yes.  
5 Q. And likewise, the third does  
6 not impede your memory in any way?  
7 A. Not at all.  
8 Q. Do you take any other  
9 medications at all?  
10 A. No.  
11 Q. Hello?  
12 A. No.  
13 Q. Okay. And that's, again,  
14 you need to wait for a second, so that  
15 the question's fully done because  
16 otherwise I don't hear your answer.  
17 Ma'am, I want to ask you first  
18 some questions about your background  
19 before we get to that.  
20 What did you do to prepare to  
21 testify here today?  
22 A. Talked to my attorney.  
23 Q. Mr. Bacon?  
24 A. Yes.  
25 Q. When?

Page 11

1 A. Yesterday.  
2 Q. On the phone?  
3 A. Yes.  
4 Q. For how long?  
5 A. I don't know how long it  
6 was.  
7 Q. Was it less than a half  
8 hour?  
9 A. Probably, yeah.  
10 Q. Was it just the two of you  
11 as part of --  
12 A. Mr. Fuller was present on  
13 the conference call as well.  
14 Q. Is Mr. Fuller serving as one  
15 of the attorneys in this case?  
16 A. Yes, he is.  
17 Q. And did you review any  
18 documents when you had this meeting  
19 yesterday?  
20 MR. BACON: Objection. Mr.  
21 Fuller was not participating. Mr.  
22 Fuller is not --  
23 A. I'm sorry, I confused my  
24 cases. That's correct, just Mr. Bacon.  
25 Q. So you had a telephone

Page 12

1 conference yesterday and who was it  
2 with?  
3 A. Just Tom Bacon and not --  
4 Q. Not Mr. Fuller?  
5 A. Not Mr. Fuller.  
6 Q. And that conversation lasted  
7 less than half an hour?  
8 A. Yes.  
9 Q. Did you look at any  
10 documents during the conference?  
11 A. Some photographs.  
12 Q. Photos?  
13 A. Yes.  
14 Q. How many?  
15 A. I don't know.  
16 Q. Approximately, ma'am.  
17 A. 20.  
18 Q. Are these pictures that you  
19 took?  
20 A. Yes.  
21 Q. And they are of the premises  
22 described in the complaint in this case?  
23 A. Yes, they are pictures that  
24 my boyfriend took.  
25 Q. Who's your boyfriend?

Page 13

1 A. David Lott.  
2 Q. Can you spell his name for  
3 the record?  
4 A. D A V I D, L O T T.  
5 Q. Where does he live?  
6 A. In Cleveland Heights, Ohio.  
7 Q. And what's his address?  
8 A. 2393 South Taylor Road,  
9 Cleveland Heights, Ohio, 44118.  
10 Q. I'm sorry?  
11 A. 2393.  
12 Q. What's the street?  
13 A. South Taylor Road.  
14 Q. South Taylor Road?  
15 A. Cleveland Heights, Ohio  
16 44118.  
17 Q. And there are 20 pictures?  
18 A. Yes.  
19 Q. Colored or --  
20 A. Black and white.  
21 Q. Do you have them with you  
22 here today?  
23 A. No.  
24 Q. And what other documents or  
25 notes or anything else did you have with

4 (Pages 10 to 13)

Page 14

1 you during the telephone conference  
2 yesterday?  
3 A. Nothing.  
4 Q. How long have you had a  
5 relationship with Mr. Lott?  
6 A. 15 years.  
7 Q. Are you married?  
8 A. No.  
9 Q. Have you ever been married  
10 to him?  
11 A. No.  
12 Q. Have you ever been married?  
13 A. Yes.  
14 Q. When?  
15 A. A long time ago. I got  
16 married in 1978 and I was married for  
17 13 years.  
18 Q. To who?  
19 A. To Paul Balzer.  
20 Q. Can you spell the last name  
21 for the record?  
22 A. B A L Z E R.  
23 Q. And where does he currently  
24 reside?  
25 A. Albany, New York.

Page 15

1 Q. And where was the divorce  
2 filed?  
3 A. Cleveland, Ohio.  
4 Q. In state court?  
5 A. Yes.  
6 Q. And have you been married  
7 since this time?  
8 A. No.  
9 Q. Mr. Lott, what's his phone  
10 number?  
11 A. 216-702-5648.  
12 Q. So just to be clear. The  
13 only things you looked at while you had  
14 the meeting to prepare for your  
15 deposition was these photographs?  
16 A. Correct.  
17 Q. And when did Mr. Lott take  
18 those photographs?  
19 A. On the trip -- on a vacation  
20 that we took to Chicago last summer to  
21 visit my son.  
22 Q. And what year was that,  
23 ma'am?  
24 A. 19 -- I'm sorry, 2007.  
25 Q. How did you get from

Page 16

1 Cleveland to the Chicago area?  
2 A. Drove in a car.  
3 Q. Who drove?  
4 A. David Lott.  
5 Q. Are you able to drive,  
6 ma'am?  
7 A. No.  
8 Q. When was the last time you  
9 drove a car?  
10 A. 1995.  
11 Q. And why did you stop  
12 driving?  
13 A. When I went into the  
14 wheelchair or I was starting to not feel  
15 as comfortable in control of the car  
16 moving my feet.  
17 Q. Are you physically able to  
18 drive, if you want to?  
19 A. If I could have hand  
20 controls.  
21 Q. Have you ever tried to drive  
22 since 1995?  
23 A. No.  
24 Q. Has anyone ever told you you  
25 can't drive?

Page 17

1 A. No.  
2 Q. Do you have a license?  
3 A. No.  
4 Q. When did you last have a  
5 license?  
6 A. It's been a long time. It's  
7 probably been at least eight years since  
8 I've had a driver's license.  
9 Q. Do you have any more  
10 specific date when it was that you and  
11 Mr. Lott went to visit your son in  
12 Chicago in 2007 when he took those  
13 pictures?  
14 A. The beginning of August. I  
15 can't tell exact dates. I need to look  
16 at the calendar but even then I'd have  
17 a hard time remembering.  
18 Q. So there's nothing that would  
19 tell us where the specific date --  
20 A. Well, I stayed in hotels so  
21 there might be a record that I can fish  
22 out.  
23 Q. You still have those receipts  
24 you think?  
25 A. Sure.

5 (Pages 14 to 17)

Page 18

1 Q. And your son, his name is?  
2 A. Matthew Fields.  
3 Q. Spell his last name for the  
4 record.  
5 A. F I E L D S.  
6 Q. And what's his address?  
7 A. I don't know offhand.  
8 Q. What town does he live in?  
9 A. Chicago proper.  
10 Q. In Chicago city?  
11 A. Yeah.  
12 Q. Did he ever live anywhere  
13 else in the Chicago area?  
14 A. No.  
15 Q. And when you went to visit  
16 your son in the -- you went to visit  
17 your son in the City of Chicago, what  
18 were you doing in town where this  
19 premises was located?  
20 A. Well, he's a disc jockey for  
21 one thing. He had a sick client so we  
22 went out someplace.  
23 Q. First of all, how many days  
24 were you visiting your son on this  
25 occasion?

Page 19

1 A. Four days.  
2 Q. And where did you stay?  
3 A. Different places. We stayed  
4 at Skokie. A place in Skokie,  
5 Doubletree.  
6 Q. Okay.  
7 A. Spent two nights there and  
8 I'm trying to remember. We stayed in  
9 the city proper at the Tremont Hotel in  
10 Chicago in the city.  
11 Q. Okay.  
12 A. I think that's it.  
13 Q. And do you stay with your  
14 son at all?  
15 A. No, I can't get into his  
16 space.  
17 Q. Because of your wheelchair?  
18 A. Yes.  
19 Q. And he lives somewhere in  
20 the City of Chicago but you don't know?  
21 A. Well, he moved recently so  
22 he just used to live on West Belmont so  
23 I don't remember.  
24 Q. What brought you to the  
25 premises that's described in the

Page 20

1 complaint sometime in August of 2007?  
2 A. Well, we were driving, again,  
3 out in what felt like the boonies and  
4 we saw a mall that had a Best Buy and  
5 he was looking for something. I needed  
6 to pick up something at the drug store  
7 and there was a Super Dominic's  
8 supermarket. I wanted something there  
9 also.  
10 Q. So let me get this. Where  
11 were you going on that occasion?  
12 A. Matthew was going to  
13 interview -- be interviewed by a client  
14 in the -- a prospective client or  
15 something in Arlington.  
16 Q. In Arlington. Do you have  
17 -- that's the name of the town?  
18 A. Yes.  
19 Q. It's called Arlington?  
20 A. Yes.  
21 Q. And you had never been in  
22 that town ever before?  
23 A. No, never.  
24 Q. And who was driving?  
25 A. David, my boyfriend.

Page 21

1 Q. So just the three of you?  
2 A. Yes.  
3 Q. And you said who initially  
4 wanted to stop?  
5 A. We both wanted to stop. It  
6 was a really hot day.  
7 Q. Your son wanted to go to  
8 Best Buy?  
9 A. Yes, it was a very, very hot  
10 day. That's what I can remember  
11 driving.  
12 Q. So he went to Best Buy to  
13 get what?  
14 A. A CD.  
15 Q. To get what?  
16 A. A CD.  
17 Q. Okay. And you wanted to go  
18 where?  
19 A. Jump into Dominic's and get  
20 some fruit.  
21 Q. And how long would you say  
22 you and your son and David were at  
23 these facilities?  
24 A. Less than an hour.  
25 Q. And why was it that David

Page 22

1 had a camera with him?  
2 A. David always has a camera  
3 with him.  
4 Q. Why is that?  
5 A. Well, a couple of things.  
6 He has it in his work but also that we  
7 -- I'm an advocate, and so I'm looking  
8 for things that are and aren't  
9 accessible always.  
10 Q. Okay. And what is the  
11 nature of David's business?  
12 A. He's a Realtor.  
13 Q. Who does he work for?  
14 A. Avalar.  
15 Q. Can you spell that for us?  
16 A. A V A L A R.  
17 Q. Is that Cleveland?  
18 A. Yes, it is.  
19 Q. Does Mr. Lott have any sort  
20 of disabilities?  
21 A. No.  
22 Q. Is he a member of Disabled  
23 Patriots?  
24 A. No.  
25 Q. Has he ever been?

Page 23

1 A. No.  
2 Q. Okay. And did you ask him  
3 to take these pictures?  
4 A. Sure.  
5 Q. And that's the only reason  
6 he took them?  
7 A. Yes.  
8 Q. And where is the first place  
9 you went -- first of all, I take it  
10 your son or David pulled the car in the  
11 parking lot?  
12 A. Yes.  
13 Q. And where did they park it?  
14 A. I don't even remember where  
15 we parked truly.  
16 Q. Any idea whatsoever, ma'am?  
17 A. No.  
18 Q. And did David take any  
19 pictures of the area where you parked?  
20 A. Yeah, there was a lot wrong  
21 with the parking lot.  
22 Q. I just want to know yes or  
23 no. Did David take any pictures of the  
24 parking area where you parked?  
25 A. Yes.

Page 24

1 Q. And out of these 20 or so  
2 pictures, how many of them relate to the  
3 parking lot area?  
4 A. I don't know. I can't  
5 remember.  
6 Q. What's depicted in any of  
7 the pictures about the parking lot?  
8 A. As I remember, there were  
9 numerous things wrong.  
10 Q. Well, we're just focusing  
11 specifically on the parking lot only.  
12 A. Okay.  
13 Q. First of all, how many  
14 things were wrong?  
15 A. Numerous things.  
16 Q. What does that mean? Does  
17 that mean one, two, five, ten?  
18 A. I don't know. More than two  
19 and probably less than ten.  
20 Q. I want to walk through each  
21 thing that was wrong and we'll talk  
22 about the specifics. So just first of  
23 all, list for me the things that were  
24 wrong and then we'll get into the  
25 details of those.

Page 25

1 A. Okay. All the signage was  
2 wrong to mark spots.  
3 Q. What's the next thing?  
4 A. There were no access aisles  
5 to get from the parking -- from the car  
6 to the store without putting -- going  
7 behind cars which puts you in jeopardy.  
8 Q. Without what?  
9 A. You have to go -- when you  
10 have to go behind the automobiles to get  
11 into the store, that's against the ADA  
12 and it's dangerous.  
13 Q. Okay. What else?  
14 A. Uneven levels in the parking  
15 lot.  
16 Q. Okay. What else?  
17 A. Those are really the things  
18 that I can remember.  
19 Q. Okay. Now, this is a pretty  
20 large facility. There's all sort of  
21 different stores there, isn't there,  
22 ma'am?  
23 A. Hm-hm.  
24 Q. You have to say yes or no.  
25 A. Yes.

7 (Pages 22 to 25)



Page 26

1 Q. Okay. And you have no idea  
2 whatsoever what store you parked near?

3 A. Not initially, no. I know  
4 that ultimately we drove around the  
5 entire shopping area.

6 Q. Okay. Just name for me the  
7 different stores that are in that  
8 shopping area.

9 A. There's a Dominic's. There's  
10 a Walgreens. There's a Jo-Ann Fabrics.  
11 There was a Best Buy, as I said. There  
12 was a Catherine's plus size women's wear  
13 store.

14 Q. Anything else?

15 A. That's what I remember.

16 Q. Okay. And are they all part  
17 of the same facility or are they all  
18 independent and separate facilities?

19 A. I'm pretty sure that Best  
20 Buy was freestanding, a stand alone.  
21 Oh, there was an Old Country Buffet  
22 there, also.

23 Q. Is that located in the  
24 parking lot?

25 A. It was -- yeah, I think that

Page 27

1 had an entrance from the parking lot.

2 Q. But out of all those various  
3 stores, you have no idea where you  
4 parked the car?

5 A. No.

6 Q. Okay. And it was only  
7 parked in one spot, right?

8 A. Right.

9 Q. Okay. Now, with respect to  
10 the signs, you said all the signs were  
11 wrong.

12 A. Right.

13 Q. Explain in more detail what  
14 you're talking about.

15 A. Well, they couldn't be seen.  
16 As you were driving around, you wouldn't  
17 be able to like really easily find a  
18 handicap parking space.

19 Q. Well, what does the sign say  
20 that you're talking about?

21 A. Well, they said -- I mean,  
22 they were marked with the disabled  
23 signage but they weren't easily seen.  
24 They weren't at the right height.

25 Q. Okay. So there were -- in

Page 28

1 the area you parked, you parked in a  
2 disabled spot, right?

3 A. Yes.

4 Q. And there was a sign saying  
5 it was a disabled spot, right?

6 A. Yes.

7 Q. And describe for me as  
8 specifically as you can what the sign  
9 that you saw looked like and what it  
10 said.

11 A. Well, it looked like the  
12 traditional handicap parking marker but  
13 if they're not put at the right height  
14 when you're driving through the parking  
15 lot, it's hard to see where the handicap  
16 parking is.

17 Q. Well, that wasn't my  
18 question, ma'am. I just want you to  
19 describe, as specifically as you can,  
20 what the sign said, what color it was,  
21 all the details about the sign that you  
22 were talking about.

23 A. If I'm correct, the sign is  
24 blue and it's got the handicap logo.

25 Q. And so with respect to that

Page 29

1 sign, apart from the height issue which  
2 we'll get into in a minute, there was  
3 no issue or problem whatsoever except  
4 for the height; is that correct?

5 A. Not that I can remember.

6 Q. Okay. And what height was  
7 the sign that you're talking about?

8 A. I don't know but I know that  
9 it wasn't up high enough to see, as you  
10 were driving around in the parking lot.

11 Q. So you have no idea  
12 whatsoever how high it was?

13 A. No. No, I don't.

14 Q. And you didn't take any  
15 measurements?

16 A. No.

17 Q. Well, certainly it was higher  
18 than your car, wasn't it, ma'am?

19 A. Yeah, but that's not -- I  
20 mean, it was little Honda, so it wasn't  
21 saying much that it was higher than the  
22 car.

23 Q. Okay. But you can't give me  
24 any more detail about its height, can  
25 you?

8 (Pages 26 to 29)

Page 30

1 A. No.  
 2 Q. Okay. And so with regard to  
 3 this problem or alleged problem with the  
 4 sign, that's the only problem you can  
 5 think of?  
 6 A. With the sign.  
 7 Q. Yeah.  
 8 A. Yes.  
 9 Q. That's it?  
 10 A. Yes.  
 11 Q. Now, you also said something  
 12 about marked spots.  
 13 Was there some problem with the  
 14 marking of the spots?  
 15 A. No. What I'm saying, if the  
 16 sign's not high enough when you're  
 17 driving through, you can't see where the  
 18 handicap spots are.  
 19 Q. Okay, Well, you're saying  
 20 in general that could be a problem but  
 21 certainly you saw the sign and parked in  
 22 the spot, didn't you, ma'am?  
 23 A. Ultimately.  
 24 Q. Okay. Now, there's no other  
 25 problem with the markings on the spots,

Page 31

1 was there, ma'am?  
 2 A. No.  
 3 Q. Now, with respect to the  
 4 second thing you pointed out in the  
 5 parking lot, you said there were no  
 6 access aisles from the car to the store,  
 7 right?  
 8 A. Correct.  
 9 Q. And explain what exactly do  
 10 you mean by that. When you got out of  
 11 the car, you're saying that to get to  
 12 the store you had to walk behind cars  
 13 like people normally do in a parking  
 14 lot?  
 15 A. Yeah, except for one thing.  
 16 I'm not the height of people walking  
 17 through the parking lot. So it would  
 18 be really hard for a driver to see my  
 19 wheelchair passing behind it.  
 20 Q. Well, that would be a  
 21 problem anywhere you went in this  
 22 country, wouldn't it, ma'am?  
 23 A. Anything there's not an  
 24 access aisle.  
 25 Q. I'm just talking about in

Page 32

1 general. When you're using your  
 2 wheelchair or someone's pushing your  
 3 wheelchair, there always can be a  
 4 potential problem that someone might see  
 5 you in their rearview, right?  
 6 A. Correct.  
 7 Q. Okay. Now, and when you  
 8 were walking through this particular  
 9 parking lot you didn't have any  
 10 encounters where you were put in danger  
 11 because of that, correct?  
 12 A. But you're always in danger  
 13 when you're passing behind a car.  
 14 Q. Well, that wasn't my  
 15 question. When you walked through this  
 16 particular parking lot on that  
 17 particular occasion, you had no problems  
 18 whatsoever in terms of cars getting  
 19 close to you, almost hitting you,  
 20 anything like that?  
 21 A. No.  
 22 Q. And this access aisle, are  
 23 you saying there was no access aisles at  
 24 all?  
 25 A. Not that -- not in the place

Page 33

1 where I parked, no.  
 2 Q. Well, did you look, ma'am,  
 3 anywhere else in the facility to see if  
 4 there are any access aisles or not?  
 5 A. Some of the parking spaces,  
 6 after we started looking, did have some  
 7 access and some were without.  
 8 Q. Okay. Well, first of all,  
 9 how many total parking areas for  
 10 disability parking were there at this  
 11 facility, ma'am, at the time?  
 12 A. Well, there were all kinds  
 13 of handicap spots in front of stores.  
 14 Q. Well, you know, you told me  
 15 some of them had access aisles and some  
 16 of them didn't, right?  
 17 A. Yes.  
 18 Q. Okay. Well, in total how  
 19 many were there with access aisles and  
 20 how many where they didn't have access  
 21 aisles?  
 22 A. I don't remember.  
 23 Q. What?  
 24 A. I don't remember.  
 25 Q. You can't tell me anything

Page 34

1 at all about that?  
 2 A. No.  
 3 Q. Okay. And you didn't bother  
 4 to count at the time?  
 5 A. No.  
 6 Q. Okay. And you didn't take  
 7 any notes whatsoever while you were  
 8 there?  
 9 A. No.  
 10 Q. And you didn't make any  
 11 report while you were there?  
 12 A. No.  
 13 Q. And you didn't make any  
 14 complaint to anybody while you were  
 15 there?  
 16 A. No.  
 17 Q. And you never complained to  
 18 any of the stores in the facility after  
 19 you left, correct?  
 20 A. That is correct.  
 21 Q. And how far was -- since we  
 22 don't have any idea where you parked,  
 23 right, because you don't remember that,  
 24 right?  
 25 A. Correct.

Page 35

1 Q. And so can you give me any  
 2 indication of how far away an access  
 3 aisle was from where you did park?  
 4 A. A ways away.  
 5 Q. Well, what does that mean?  
 6 Are you talking --  
 7 A. I don't even know that I  
 8 remember that there was any access  
 9 aisle.  
 10 Q. Well, you just told me that  
 11 there was.  
 12 A. In other parking places. In  
 13 other parking areas but not where I  
 14 parked.  
 15 Q. I understand that. But what  
 16 I'm saying is, wherever it was that you  
 17 parked, where was the closest access  
 18 aisle to where you parked?  
 19 A. I can't tell you that.  
 20 Q. Any idea whatsoever?  
 21 A. No.  
 22 Q. Okay. Now, when you were  
 23 there, ma'am, why didn't you point out  
 24 the problem with the sign or the problem  
 25 with the access aisles to anybody at any

Page 36

1 facilities?  
 2 A. Because if I did that,  
 3 that's all I would ever do in my life.  
 4 There would never be anything but  
 5 complaining about things that are not  
 6 right or safe.  
 7 Q. Well, ma'am, you waited to  
 8 file this lawsuit. What I'm asking is,  
 9 why at any time prior to filing this  
 10 lawsuit didn't you bother to pick up the  
 11 phone or send a letter or send an  
 12 e-mail or try to contact anyone and tell  
 13 them about these alleged problems?  
 14 A. Sir, if you could have a  
 15 sense of how much I e-mail people  
 16 telling them or asking them to pay  
 17 attention to the fact that their places  
 18 are not ADA compliant, it would be a  
 19 tome of complaints that I -- and e-mails  
 20 that I've made. I'm used to not  
 21 getting any kind of acknowledgment at  
 22 all and that's why I don't always do  
 23 it. It's --  
 24 Q. This facility you never  
 25 tried, right?

Page 37

1 A. No, I did not.  
 2 Q. Okay. Now, have you told me  
 3 everything that was in your mind  
 4 improper with respect to the access  
 5 aisles?  
 6 A. Yes.  
 7 Q. Okay. Now, you also stated  
 8 that there was some what you call uneven  
 9 levels in the parking lot and I'm trying  
 10 to understand what you're talking about.  
 11 What do you mean?  
 12 A. When the pavement changes  
 13 level, that's not a gigantic issue for a  
 14 walker. It is a gigantic issue  
 15 sometimes for someone in a chair.  
 16 Q. Okay. Just so I'm clear.  
 17 Between the time where you parked in  
 18 this unknown spot until you went into  
 19 the first building and what building was  
 20 that?  
 21 A. It was a mall entrance.  
 22 Q. Okay. And where was the  
 23 mall entrance? What store was it near?  
 24 A. I want to say Jo-Ann Fabric.  
 25 That sticks in my mind.

10 (Pages 34 to 37)

Page 38

1 Q. Well, is that it or are you  
2 just speculating?  
3 A. I'm speculating.  
4 Q. So you don't have any idea  
5 what entrance you actually went in?  
6 A. It was on a side where the  
7 Catherine's store was on that side also.  
8 Q. That's the best you can say?  
9 A. Yes.  
10 Q. And how long -- many feet  
11 was it approximately from where you  
12 parked to where you went in this  
13 entrance?  
14 A. I don't know. I'm not very  
15 good at judging that.  
16 Q. I mean, are we talking about  
17 10 feet, more like 50 feet --  
18 A. No.  
19 Q. -- or like a hundred feet?  
20 A. No, probably, again,  
21 somewhere between 10 and 50 feet I would  
22 guess.  
23 Q. That's your best estimate?  
24 A. That's my best estimate.  
25 Q. Okay. And when you were

Page 39

1 walking -- you use the wheelchair  
2 yourself or someone push you?  
3 A. Well, it depends. On this  
4 occasion I was being pushed because I  
5 was in my manual wheelchair. Most of  
6 the time I use my power wheelchair.  
7 Q. Okay. And why didn't you  
8 have the power wheelchair?  
9 A. Because it doesn't fit in  
10 the car.  
11 Q. And who was pushing you?  
12 A. David or --  
13 Q. Okay.  
14 A. -- or Matthew. I don't  
15 remember.  
16 Q. So you're saying that when  
17 you were walking or he was pushing you  
18 for these 10 to 50 feet, you felt like  
19 you went over some uneven ground?  
20 A. Yeah.  
21 Q. Meaning that there was just  
22 very -- like you might find on a street  
23 or a parking lot, just it's not quite  
24 the same consistency everywhere?  
25 A. Right.

Page 40

1 Q. And that's the best you can  
2 say about that?  
3 A. Yeah. I mean, it was enough  
4 that it caught my attention to even  
5 mention it.  
6 Q. So they didn't tip you over  
7 or anything like that?  
8 A. No, but under different  
9 circumstances it can.  
10 Q. But it didn't on that  
11 occasion?  
12 A. No, it did not.  
13 Q. And is that the only spot  
14 where it was uneven, ma'am?  
15 A. No, there were other places  
16 that were uneven also.  
17 Q. Where would we find these  
18 places? How would we locate where they  
19 are anywhere in the parking lot?  
20 A. I mean, if you would take a  
21 walk around, you would be able to see  
22 places that are not level.  
23 Q. Well, I'm not talking about  
24 doing it now, ma'am. Do you have any  
25 idea as you sit here now under oath

Page 41

1 where these spots are in the parking  
2 lot?  
3 A. No.  
4 Q. Okay. And you have nothing  
5 that would tell us where they are?  
6 A. No.  
7 Q. And you have no idea how  
8 many of these spots you're talking  
9 about?  
10 A. No.  
11 Q. Okay.  
12 A. Several.  
13 Q. Excuse me?  
14 A. Several.  
15 Q. Several. Is the best you  
16 can say several?  
17 A. Yes.  
18 Q. That might be two or three?  
19 A. Yes.  
20 Q. Okay. But you can't tell me  
21 anything about the two or three spots?  
22 A. No.  
23 Q. Okay. Have you told me  
24 everything about this parking lot at  
25 this large facility that you feel was

11 (Pages 38 to 41)

Page 42

1 improper?  
 2 A. Yes.  
 3 Q. Okay. Nothing else  
 4 whatsoever?  
 5 A. I'm telling you everything I  
 6 can remember.  
 7 Q. Okay. Now, with respect to  
 8 the physical facility itself, any of  
 9 these stores or mall areas or anything  
 10 like that, what is the next thing that  
 11 you think is wrong or in violation?  
 12 A. Well, there were all kind of  
 13 things that were wrong and in violation.  
 14 Q. Well, tell me the next  
 15 thing, ma'am.  
 16 A. There were bathroom -- there  
 17 was a bathroom I went into where the --  
 18 just to note, the sink wasn't wrapped  
 19 underneath, so if I pulled under, I was  
 20 at jeopardy of burning myself on a pipe.  
 21 There was a bathroom that had  
 22 women's machines, the sanitary napkin  
 23 dispenser and stuff was at the wrong  
 24 height that I couldn't use.  
 25 There were hooks on the back of

Page 43

1 bathroom -- the commode doors that I  
 2 couldn't hang anything on.  
 3 The flush on the toilet was on  
 4 the wrong side.  
 5 The grab bars weren't in the  
 6 right place and one wasn't long enough  
 7 to support standing up comfortably.  
 8 Q. Anything else with respect to  
 9 the bathrooms?  
 10 A. Nothing that I can remember.  
 11 Q. Okay. This bathroom that  
 12 we're talking about, where was it  
 13 located? Was it in one of these  
 14 stores?  
 15 A. Yeah.  
 16 Q. It was?  
 17 A. I'm pretty sure it was in  
 18 the store, yes.  
 19 Q. But you don't know for sure?  
 20 A. I don't remember.  
 21 Q. And you don't know what  
 22 store it was in?  
 23 A. No.  
 24 Q. Okay. No idea at all?  
 25 A. I know that I went into

Page 44

1 certain stores and it was -- it had to  
 2 have been one of those, I think.  
 3 Q. But you have no idea what  
 4 store it was in?  
 5 A. It had to be an accessible  
 6 bathroom. No.  
 7 Q. Now, and you went into one  
 8 bathroom?  
 9 A. I went in to use a bathroom,  
 10 yes.  
 11 Q. Just one?  
 12 A. Yes.  
 13 Q. Okay. So the hour you were  
 14 there or so you just went in one  
 15 bathroom?  
 16 A. Yes. I know David and  
 17 Matthew went to the bathroom, as well.  
 18 Q. But you never went into  
 19 their bathrooms, did you?  
 20 A. No, I didn't go into the  
 21 men's bathroom.  
 22 Q. Okay. At any time, right?  
 23 A. Right, at any time.  
 24 Q. Okay. So with respect to  
 25 these problems you described for me,

Page 45

1 they were all based upon your own visual  
 2 observations in one bathroom but you  
 3 can't identify the location, right?  
 4 A. That is correct.  
 5 Q. And you said that in this  
 6 bathroom -- first of all, you spent  
 7 what, about three or four minutes in  
 8 there?  
 9 A. No, no, no, no, no.  
 10 Q. What?  
 11 A. There's no such thing as  
 12 three or four minutes. It takes some  
 13 time to figure out how to use the  
 14 bathroom and using it especially -- it's  
 15 time consuming when everything is right  
 16 and it's more time consuming when things  
 17 are not correct.  
 18 Q. Okay. Well, with respect to  
 19 this bathroom you were in, ma'am, how  
 20 much time did you spend in there?  
 21 A. At least ten minutes.  
 22 Q. Did you take any pictures?  
 23 A. Yes.  
 24 Q. You took them?  
 25 A. No, I think actually David

12 (Pages 42 to 45)

Page 46

1 came in and poked his head in and took  
2 some.

3 Q. So he took some pictures  
4 later?

5 A. Yeah.

6 Q. Did he take any pictures of  
7 any other bathrooms?

8 A. I think he did.

9 Q. You don't know if he did or  
10 not?

11 A. No, he did. He did -- he  
12 took some pictures of a men's bathroom  
13 that was not correct either.

14 Q. Okay. Well, the pictures  
15 that you have, are we able to tell by  
16 looking at the pictures if it's the  
17 men's bathroom or if the women's  
18 bathroom or anything like that?

19 A. Yeah.

20 Q. Okay. So whatever pictures  
21 there are, there's markings that will  
22 tell us which one's the women's one and  
23 which one's the men's one?

24 A. Where you see the sanitary  
25 napkins, that's the women's.

Page 47

1 Q. Okay. And then the pictures  
2 of the men's bathroom, is it one  
3 bathroom or is it more than one?

4 A. I think it was one or two  
5 bathrooms, I can't be sure.

6 Q. Okay. And what facilities  
7 or locations were the other bathrooms,  
8 in the men's bathrooms?

9 A. I don't know. I don't  
10 remember.

11 Q. No idea at all?

12 A. Hm-hm.

13 Q. No idea at all?

14 A. No. No, I don't remember.

15 Q. Now, with respect to the  
16 bathroom you actually spent some time  
17 in, you said the sink was not wrapped  
18 underneath, so that if your leg would  
19 have touched the pipe underneath the  
20 sink, it might have got burned?

21 A. Yeah, that's why they wrap  
22 those things.

23 Q. That didn't happen to you,  
24 did it, ma'am?

25 A. No, it didn't because I was

Page 48

1 cautious because I saw it wasn't  
2 wrapped.

3 Q. And are you aware of anyone  
4 ever getting their leg burned against  
5 that sink in that bathroom?

6 A. Am I aware of personally  
7 someone in my life having their leg  
8 burnt under a sink, no.

9 Q. Yeah.

10 A. No.

11 Q. Okay. And certainly, you're  
12 not aware of anyone at this facility  
13 that ever happening to, right?

14 A. That is correct.

15 Q. And you didn't do any tests,  
16 such as turning on the hot water or  
17 anything like that to see if the pipe  
18 would get warm, did you, ma'am?

19 A. I washed my hands.

20 Q. And you didn't touch the  
21 pipe to see if it was warm, did you,  
22 ma'am?

23 A. No.

24 Q. So whether it was wrapped or  
25 not, you have no idea what the

Page 49

1 temperature of it was or whether it was  
2 even hot to the touch, right?

3 A. No, but I do know that the  
4 law asks that pipes be wrapped.

5 Q. I understand that. But you  
6 have no idea whether -- even if it one  
7 ran the hottest water possible, whether  
8 or not the pipe was even hot to the  
9 touch, correct?

10 A. No, I do not.

11 Q. Because you didn't do that,  
12 right?

13 A. Right.

14 Q. All right. And was there  
15 anything -- any other problem besides  
16 this -- with respect to the pipe only,  
17 was there any other problem with the  
18 pipe other than it wasn't wrapped?

19 A. I'm not aware of any.

20 Q. And what should it have been  
21 wrapped with?

22 A. Some kind of like -- it's  
23 usually a plastic coating that gets  
24 wrapped around the pipes, so if you do  
25 happen to put your knee under there or

13 (Pages 46 to 49)



Page 50

1 your legs and it is really hot, so that  
2 you don't get burnt.

3 Q. Are you aware with anyone  
4 besides yourself with a disability who's  
5 ever in any of the bathrooms at this  
6 site?

7 A. I would have to think that  
8 in life that there was someone in a  
9 wheelchair in that bathroom.

10 Q. Well, no, I don't want you  
11 to speculate or make up. You have no  
12 knowledge of that, right?

13 A. No.

14 Q. Okay. Now, with respect to  
15 the next problem you identified in the  
16 bathroom and now I can't even read my  
17 own notes is the pipe sink issue. The  
18 next thing before the hooks, I'm sorry,  
19 what did you say?

20 A. There was a hook on the back  
21 of the commode door to hang something  
22 but it was not in my reach.

23 Q. Okay. It wasn't at your  
24 reach of your sitting in your  
25 wheelchair?

Page 51

1 A. Correct.

2 Q. What was the height of it?

3 A. I couldn't tell you but it  
4 was at least -- it was outside of my  
5 arm span while sitting.

6 Q. But you have no idea what  
7 height it was?

8 A. No.

9 Q. What color was the hook?

10 A. Silver.

11 Q. And you didn't do any  
12 measurements?

13 A. No.

14 Q. Okay. Are you able to stand  
15 up?

16 A. I'm able to transfer.

17 Q. What does that mean?

18 A. That means that I can stand  
19 and hold onto grab bars and turn myself  
20 around to sit on the commode.

21 Q. Okay. So you didn't try to  
22 stand and try to reach into the hook,  
23 correct?

24 A. No, that wasn't --

25 Q. You didn't actually try to

Page 52

1 put anything on the hook, did you?

2 A. I couldn't get my purse on  
3 the hook, I can tell you that.

4 Q. I know that may have been  
5 the case but you didn't try to do that,  
6 did you?

7 A. Well, I saw that I couldn't  
8 reach it so there was no point.

9 Q. Well, that's not my question.

10 You didn't try to put anything on the  
11 hook at all, did you, ma'am?

12 A. No.

13 Q. And how large was the  
14 bathroom? It was how many feet by how  
15 many feet?

16 A. I can't tell you.

17 Q. Any idea at all?

18 A. It was a standard stall.

19 Whatever the largest stall is.

20 Q. So a large size stall?

21 A. Yeah.

22 Q. Just one freestanding toilet

23 unit?

24 A. Yes.

25 Q. No stall -- no individual

Page 53

1 stalls within the bathroom?

2 A. No, I'm saying inside the  
3 bathroom that had more than one stall.

4 Q. Okay. So how many stalls  
5 were there?

6 A. I don't know.

7 Q. Any idea at all?

8 A. No.

9 Q. Okay. And you were in a  
10 stall with a door that closed?

11 A. Yes.

12 Q. Okay. And how many of those  
13 were there in this bathroom?

14 A. I couldn't tell you.

15 Q. No idea at all?

16 A. Hm-hm. No.

17 Q. Okay. And with respect to  
18 the stall you were in, there were no  
19 grab bars?

20 A. There were grab bars but the  
21 grab bar that was at the back of this  
22 stall at the back of the toilet was not  
23 regulation length, making it much harder  
24 for me to get up and get balanced and  
25 turn around.

14 (Pages 50 to 53)

Page 54

1 Q. Okay. But you were able to  
2 do that, right?  
3 A. With much difficulty.  
4 Q. And so according to you,  
5 there was a grab bar that wasn't present  
6 where it should have been at the back  
7 of the toilet?  
8 A. Correct.  
9 Q. And it wasn't there at all  
10 or it just wasn't at the right height?  
11 A. It wasn't at the right  
12 height.  
13 Q. And what height was it at?  
14 A. No, the height was all  
15 right. It wasn't wide enough.  
16 Q. It wasn't what?  
17 A. The bar was not wide enough  
18 for me to do the requisite turning  
19 around which is complex to start with.  
20 Q. What do you mean wide  
21 enough?  
22 A. The bar -- there's a length  
23 of a bar, right, if you were standing  
24 it on the floor it would be two feet or  
25 three feet or four feet long, and it

Page 55

1 wasn't regulation length.  
2 Q. And what's the length  
3 supposed to be?  
4 A. I don't know but I know that  
5 it wasn't because I've seen a lot --  
6 Q. Even though you don't know  
7 what the regulation length you're  
8 talking about but you say this one  
9 wasn't?  
10 A. No, I could tell you  
11 absolutely it was not.  
12 Q. Okay. Did you do any  
13 measurements?  
14 A. No.  
15 Q. Can you tell me how many  
16 inches, feet or otherwise it didn't  
17 comply with the standard, as you're  
18 talking about?  
19 A. It was at least 2 feet  
20 short.  
21 Q. Okay. So we don't know what  
22 the standard is that we're comparing it  
23 to, right?  
24 A. Correct.  
25 Q. And were any pictures taken

Page 56

1 of this bar?  
2 A. Yes.  
3 Q. Okay. And is there a  
4 picture that tells us that this bar was  
5 in the women's bathroom versus some  
6 other bathroom?  
7 A. No.  
8 Q. So --  
9 A. I don't think so.  
10 Q. -- looking at the various  
11 pictures, we have no idea which grab  
12 bar --  
13 A. Right.  
14 Q. -- bathroom this one's in?  
15 A. That is correct.  
16 Q. So there's really no evidence  
17 apart, from your testimony about the  
18 grab bar?  
19 A. Correct.  
20 Q. Okay. And the hooks, is  
21 there any picture of the hook in your  
22 bathroom?  
23 A. Yes.  
24 Q. And are we able to tell by  
25 looking at the pictures that the hook

Page 57

1 you're talking about is in this  
2 particular bathroom?  
3 A. I'm not sure.  
4 Q. No idea at all?  
5 A. I'm not sure.  
6 Q. Now, you said I think the  
7 next thing was the toilet flusher was on  
8 the wrong side?  
9 A. Yeah.  
10 Q. And what side is it supposed  
11 to be on?  
12 A. The outside.  
13 Q. Okay. Well --  
14 A. The outside. Not close so  
15 that you have to reach across the toilet  
16 to flush the toilet.  
17 Q. Well, where was the -- where  
18 was the flusher at?  
19 A. On the inside.  
20 Q. I mean, on your right side?  
21 A. No, closer to the wall, as  
22 opposed to closer to the open area.  
23 Q. Okay. So if you were  
24 sitting --  
25 A. It was on the left side.

15 (Pages 54 to 57)



Page 58

1 Q. Okay. So if you're sitting  
2 on the toilet, it would be on the  
3 left side of the toilet?  
4 A. Hm-hm.  
5 Q. You have to say yes or no.  
6 A. Yes.  
7 Q. And you think it should have  
8 been on the right?  
9 A. I don't think. I know it  
10 should have been on the right side.  
11 Q. And why is that?  
12 A. Because it's the law.  
13 Q. It has to be on the right  
14 side instead of the left?  
15 A. That is correct.  
16 Q. Is there any pictures --  
17 A. It has to be -- it has to be  
18 on the open side.  
19 Q. It has to be on the side  
20 that's away from the wall?  
21 A. Right.  
22 Q. Okay. Are there any  
23 pictures of this?  
24 A. Yes.  
25 Q. And from the pictures, can

Page 59

1 we tell what bathroom you're talking  
2 about?  
3 A. I'm pretty sure you can.  
4 Q. Okay. You obviously were  
5 able to flush the toilet, ma'am, right?  
6 A. Ultimately.  
7 Q. Okay. And do you know  
8 anybody out there who ever had a problem  
9 with the toilet?  
10 A. I can't personally say.  
11 Q. Okay. And do you know of  
12 anyone at all in this universe who ever  
13 had problems at all with this bathroom  
14 that you've been describing?  
15 A. I don't know of anyone  
16 personally.  
17 Q. Okay. And with regard to  
18 other bathrooms that you didn't go in  
19 that your son might have went in or  
20 your companion might have went in, do  
21 you know of anyone else out there in  
22 the world who ever had any problems with  
23 those bathrooms?  
24 A. No, but I'm certainly not  
25 the only human being in a wheelchair

Page 60

1 so...  
2 Q. I understand that. I'm just  
3 asking you don't know anybody else?  
4 A. No.  
5 Q. Okay. Now, was there  
6 anything else that was deficient or in  
7 violation with respect to the bathroom  
8 that you were in, ma'am?  
9 A. Not that I can remember.  
10 Q. Okay. And you never went in  
11 the bathrooms that David or your son  
12 went into, right?  
13 A. No.  
14 Q. So you can't tell me from  
15 your own personal experience what, if  
16 any, violations or deficiencies there  
17 were in those, correct?  
18 A. No, but David is learning a  
19 lot about ADA.  
20 Q. Well, I'm not asking what  
21 David might be able to talk about or  
22 not. But as far as you go, you never  
23 set foot in those bathrooms, so you have  
24 no personal knowledge of any  
25 deficiencies or violations in those

Page 61

1 bathrooms, correct?  
2 A. I did not go into the men's  
3 room, that's correct.  
4 Q. Okay. So you don't have any  
5 knowledge of any violations or alleged  
6 violations in those bathrooms, correct?  
7 A. Beyond the photos.  
8 Q. Okay. Now, you've told me  
9 now everything that was deficient with  
10 respect to the bathroom you were in,  
11 right?  
12 A. To the best of my memory.  
13 Q. Now, what is the next area  
14 of these facilities that you have any  
15 problem with? We've covered the parking  
16 lot. We covered the bathroom. What  
17 else?  
18 A. I'm trying to remember what  
19 were other issues. I recall that there  
20 were lots of exterior issues. I'm so  
21 used to interior issues that it's hard  
22 to separate one from the next. The  
23 bathroom I used -- I had specific issues  
24 with. I really can't remember.  
25 Q. So I just want to be clear.

16 (Pages 58 to 61)

Page 62

1 This is your deposition. You're a  
2 plaintiff in this case, alleging that  
3 this facility was somehow in violation  
4 of the ADA.  
5 Is there any other violations,  
6 ma'am, that you could speak to today  
7 while you're under oath in support of  
8 your case?  
9 A. I can't remember.  
10 Q. None at all, correct?  
11 A. I can't remember.  
12 Q. Okay. And after -- did you  
13 use the bathroom right away when you got  
14 there or did you shop at first?  
15 A. I think we shopped for a few  
16 minutes. I can't -- I don't remember  
17 walking in there in urgent need of a  
18 bathroom.  
19 Q. I'm sorry, I couldn't hear  
20 that last part.  
21 A. I do not remember having  
22 urgent need for the bathroom when I  
23 walked in, so we probably shopped for a  
24 bit before I used the bathroom.  
25 Q. Okay. Ma'am, what store did

Page 63

1 you first go to? You said you parked  
2 the car. We talked about that. We  
3 talked about you walking the 10 to 50  
4 feet to an entrance. We talked about  
5 you going inside but where did you first  
6 go, ma'am?  
7 A. I went to Dominic's.  
8 Q. Okay. The grocery store,  
9 right?  
10 A. Correct.  
11 Q. And how long did you spend  
12 in there?  
13 A. 15 minutes.  
14 Q. Was that just by yourself or  
15 with David and your son?  
16 A. With David.  
17 Q. And your son was in Best Buy  
18 while you were in Dominic's?  
19 A. Yes.  
20 Q. Okay. You never set foot in  
21 Best Buy, correct?  
22 A. Correct.  
23 Q. And Dominic's, you just spent  
24 some time in gathering some food items  
25 and then you checked out and then left?

Page 64

1 A. Yes.  
2 Q. And there's no problems that  
3 you saw in Dominic's, right?  
4 A. Well, there's -- I can't  
5 even -- there's problems everywhere but  
6 no, there was nothing --  
7 Q. Okay.  
8 A. -- that jumped out at me,  
9 no.  
10 Q. And after you left Dominic's,  
11 you went where within these facilities?  
12 A. We went to Walgreens.  
13 Q. Okay. And how did you get  
14 from the Dominic's to the Walgreens, did  
15 you have to walk outside?  
16 A. I don't think so.  
17 Q. So you think there's a  
18 connective between the Dominic's and the  
19 Walgreens inside?  
20 A. I can't remember for sure.  
21 Q. So you don't know if there  
22 is or there isn't?  
23 A. Right.  
24 Q. And you don't know if you  
25 went outside the Walgreens to get to the

Page 65

1 Dominic's or strike that.  
2 You don't know if you went  
3 outside the Dominic's to get to the  
4 Walgreens, correct?  
5 A. I'm trying to remember. It  
6 was a very hot day; that's all I do  
7 remember.  
8 Q. But you don't know if you  
9 had to do that?  
10 A. No.  
11 Q. And when you went to this  
12 Walgreens, what was your purpose in  
13 going there?  
14 A. Altoids, I think.  
15 Q. Okay. For you or for David?  
16 A. Me.  
17 Q. And how many minutes did you  
18 spend in the Walgreens?  
19 A. Not very long.  
20 Q. Less than five minutes?  
21 A. No, more than five.  
22 Probably less than ten minutes.  
23 Q. And all you purchased was  
24 the Altoids?  
25 A. Yes. Or something else.

17 (Pages 62 to 65)

Page 66

1 There was water maybe purchased there,  
2 too.

3 Q. Anything else?

4 A. I don't think so.

5 Q. And you didn't notice any  
6 problems or violations in the Walgreens,  
7 did you, ma'am?

8 A. Well, counters are always an  
9 issue.

10 Q. Now, but specifically in the  
11 Walgreens, you can't recall anything in  
12 particular that was an issue, can you?

13 A. No, because it's so perpetual  
14 that I can't always remember.

15 Q. So there's no violations you  
16 can delineate from each day with respect  
17 to the Walgreens or the Dominic's,  
18 right?

19 A. No.

20 Q. And then after you were in  
21 the Walgreens, where did you go next?

22 A. I don't remember.

23 Q. Any idea at all, ma'am?

24 A. I Think I poked my head into  
25 the Catherine's store.

Page 67

1 Q. With David?

2 A. Yeah. No, actually, David,  
3 I think, went to see where Matthew was  
4 and I rolled into the Catherine's.

5 Q. So you rolled your wheelchair  
6 into the Catherine's from Walgreens?

7 A. Yeah.

8 Q. To get from the Walgreens to  
9 the Catherine's, did you have to go  
10 outside?

11 A. No. I mean, David pushed me  
12 over to Catherine's and then I went into  
13 the store.

14 Q. Okay. To get from the  
15 Walgreens to the Catherine's, did you  
16 have to go outside?

17 A. I don't think so. I think  
18 they were connected.

19 Q. Okay. You think they were  
20 connected in the interior?

21 A. Hm-hm.

22 Q. Is that yes?

23 A. Yes.

24 Q. Okay. And did you actually  
25 go into the Catherine's?

Page 68

1 A. Yes.

2 Q. And by yourself?

3 A. Yes.

4 Q. Using your wheelchair?

5 A. Yes.

6 Q. How long did you spend in  
7 there?

8 A. Five minutes. Less -- maybe  
9 less than five minutes.

10 Q. What did you do?

11 A. Nothing. Just poked my head  
12 around, looked around.

13 Q. It's a clothing store?

14 A. Yes.

15 Q. And you didn't notice any  
16 problems or violations there, did you,  
17 ma'am?

18 A. I didn't notice.

19 Q. And did you buy anything?

20 A. No.

21 Q. Where did you go next?

22 A. I think we left.

23 Q. That was the extent of your  
24 entire visit there?

25 A. Yes.

Page 69

1 Q. And before you left the  
2 Catherine's, did you do anything else  
3 before you left?

4 A. I can't remember.

5 Q. Okay. So all you can recall  
6 is leaving the Catherine's, going back  
7 to the car, and leaving the facilities,  
8 correct?

9 A. Yes.

10 Q. And you've described for me  
11 with as much detail as you possibly can  
12 give me everything that you did while  
13 you were at these premises, correct?

14 A. As much as I can remember.

15 Q. There's nothing else  
16 whatsoever you can recall, right, ma'am?

17 A. Nothing I can remember.

18 Q. And you didn't document in  
19 any way the time that you spent there,  
20 did you, ma'am?

21 A. No.

22 Q. You never put down in  
23 writing a single word or notes or  
24 anything about this visit, did you,  
25 ma'am?

18 (Pages 66 to 69)

Page 70

1 A. Well, I journal, so I'm sure  
 2 there's a journal entry that includes  
 3 the visit to Town & Country.  
 4 Q. Okay. So you have a journal  
 5 that actually will tell us the dates  
 6 that you were in Chicago back in August  
 7 of 07, correct?  
 8 A. Yes, that is true.  
 9 Q. And that would tell us any  
 10 details that you wrote down at the time  
 11 about your visit to this facility,  
 12 right?  
 13 A. That is correct.  
 14 Q. Okay. And where is the  
 15 journal presently?  
 16 A. At my home.  
 17 Q. Did you look at that to  
 18 assist you in preparing to testify here  
 19 today?  
 20 A. No.  
 21 Q. Does your journal contain any  
 22 notes whatsoever about any deficiencies  
 23 or violations at these premises?  
 24 A. I'm sure I mentioned as  
 25 always that it's always a little

Page 71

1 appalling.  
 2 Q. That it's what?  
 3 A. Appalling.  
 4 Q. Okay. But you don't think  
 5 the journal contains any specifics --  
 6 A. No.  
 7 Q. -- about any of the alleged  
 8 violations --  
 9 A. No.  
 10 Q. -- correct?  
 11 A. I wouldn't write about that  
 12 in my journal.  
 13 Q. How long have you been  
 14 keeping this type of journal?  
 15 A. 15 years.  
 16 Q. Okay.  
 17 A. 16 years.  
 18 Q. And is it somewhere where  
 19 you'd note specific violations of --  
 20 A. No, no, it's not that. It's  
 21 not a work journal. It's a personal  
 22 journal.  
 23 Q. Okay. Just kind of get your  
 24 thoughts down and talk about your  
 25 feelings, those sorts of things?

Page 72

1 A. Yes.  
 2 Q. Okay. But with respect to  
 3 the pages that deal with your visit to  
 4 Chicago, you wouldn't have any  
 5 objection, based upon personal reasons  
 6 or anything to producing those pages,  
 7 would you?  
 8 A. I'd have to have a really  
 9 good reason to produce my personal  
 10 journal. What I would do is go back  
 11 and look for dates for you.  
 12 Q. Okay.  
 13 A. I'm not giving you my  
 14 journal.  
 15 Q. Apart from you possibly  
 16 mentioning in your journal that you went  
 17 to some stores with your son and your  
 18 companion, there's nothing in writing  
 19 whatsoever anywhere that memorializes  
 20 anything about your visit to these  
 21 premises, right?  
 22 A. Beyond photographs.  
 23 MR. BACON: I'm not going to  
 24 insert an objection here but if I could  
 25 interject, we do have a receipt.

Page 73

1 Q. Okay. You have a receipt  
 2 from being there, ma'am?  
 3 A. Yes.  
 4 Q. And what's the receipt --  
 5 from which store?  
 6 A. It was Walgreens.  
 7 Q. Okay. And is that in your  
 8 counsel's possession?  
 9 A. Yes.  
 10 Q. Do you have any other  
 11 receipts from the visit?  
 12 A. To the mall?  
 13 Q. Yeah. To the premises we're  
 14 talking about that are part of your  
 15 complaint in your lawsuit.  
 16 A. No.  
 17 Q. And counsel has that receipt?  
 18 A. I believe so.  
 19 MR. LEONARD: Okay. Counsel,  
 20 obviously, you will produce that?  
 21 MR. BACON: We'll produce it, if  
 22 you'd like. I'm digging through my file  
 23 right now. I can pull up -- I have a  
 24 copy of it. I can take a quick look  
 25 and read into the record and I'll be

19 (Pages 70 to 73)

Page 74

1 happy to give you a copy.  
 2 MR. LEONARD: Yeah, I'd  
 3 appreciate that. That would be great.  
 4 MR. BACON: If you'll give me  
 5 one minute here.  
 6 MR. LEONARD: Sure.  
 7 THE WITNESS: And it'll have a  
 8 date on it.  
 9 MR. BACON: Yeah, it has a date  
 10 on it. I have a copy of a Walgreens  
 11 receipt. Susie was the server. It's  
 12 dated August 4, 2007. The time is 2:58  
 13 p.m. The address is 235 East Palatine  
 14 Road in Arlington Heights. Palatine,  
 15 P A L A T I N E. And I actually can't  
 16 tell what it is that was purchased; it's  
 17 some coding.  
 18 A. Water.  
 19 MR. LEONARD: I appreciate your  
 20 reading that, Tom, and if you could just  
 21 maybe send that to me and fax a copy to  
 22 us.  
 23 MR. BACON: Absolutely.  
 24 Q. Ma'am, hearing your counsel  
 25 read that, does that refresh your

Page 76

1 there, do you, ma'am?  
 2 A. I don't know.  
 3 Q. Well, you just went there by  
 4 chance, right?  
 5 A. Kind of, yes.  
 6 Q. You had no intention to go  
 7 there and you didn't know it existed,  
 8 right?  
 9 A. That is correct.  
 10 Q. You just happened to have a  
 11 need to buy something so you decided to  
 12 pull over and go there, right?  
 13 A. Yes.  
 14 Q. Okay. So some day if you  
 15 happen to be in that neighborhood and  
 16 you needed to buy something again, that  
 17 might cause you to go there, right?  
 18 A. Correct.  
 19 Q. But you have no present  
 20 intention to go there, do you?  
 21 A. No.  
 22 Q. And, in fact, your son lives  
 23 about 40 miles away from there, correct?  
 24 A. I think that's accurate.  
 25 Q. As you said, it seems like

Page 75

1 recollection that that was the date you  
 2 were there?  
 3 A. Yeah.  
 4 Q. Okay. And you're not aware  
 5 of anything else, anything in writing,  
 6 anything written down by hand, any other  
 7 documents, notes, records whatsoever  
 8 that would relate in any way to your  
 9 visit to these premises, right?  
 10 A. No.  
 11 Q. Okay. Now, ma'am, when is  
 12 the first time that you told anybody  
 13 about this facility in Arlington  
 14 Heights?  
 15 A. I'm sure on my return from  
 16 Chicago.  
 17 Q. And who did you tell?  
 18 A. I probably told Dave Pedraza.  
 19 Q. Can you spell his last name  
 20 for the record?  
 21 A. P E D R A Z A.  
 22 Q. And before we ask about  
 23 that, you said this was sort of a  
 24 happenstance visit to this premises.  
 25 You have no intention to going back

Page 77

1 it was kind of out in the boonies,  
 2 right?  
 3 A. Yes.  
 4 Q. And you're not aware of  
 5 anyone that you know besides yourself  
 6 and your son and your companion who's  
 7 ever been there, right?  
 8 A. Correct.  
 9 Q. And you don't know anyone  
 10 who ever plans to go there, do you,  
 11 ma'am?  
 12 A. No.  
 13 Q. Okay. Now, you said you  
 14 contacted a David Pedraza to speak to  
 15 him, is that correct?  
 16 A. Yes.  
 17 Q. Did you do that by phone?  
 18 A. Yes.  
 19 Q. Who is David Pedraza?  
 20 A. He is an ADA expert.  
 21 Q. ADA expert?  
 22 A. Hm-hm.  
 23 Q. Is that yes?  
 24 A. Yes.  
 25 Q. Meaning he testifies in

20 (Pages 74 to 77)

Page 78

1 cases?  
 2 A. Well, yes. He testifies in  
 3 cases and he's an expert, so we talk  
 4 about all kinds of things that I see  
 5 out in the world, I bring them to him.  
 6 Q. Does he have disabilities  
 7 himself?  
 8 A. No.  
 9 Q. Okay. How long have you  
 10 known him?  
 11 A. Three or four years.  
 12 Q. How did you meet him?  
 13 A. I met him through a friend.  
 14 He met a friend. They started talking.  
 15 He talked about what he did, that he  
 16 was working on ADA stuff and she said I  
 17 have a friend in a chair and introduced  
 18 us.  
 19 Q. And who's your friend?  
 20 A. Tracy Greenberg.  
 21 Q. Where does Mr. Pedraza live  
 22 or have his business office?  
 23 A. In Florida.  
 24 Q. Have you ever met him in  
 25 person?

Page 79

1 A. Many times.  
 2 Q. Okay. And so your friend  
 3 happened to mention to him that you're  
 4 someone who's impacted by the ADA and  
 5 that caused what, you called Pedraza or  
 6 him to call you?  
 7 A. He called me.  
 8 Q. And that was three or four  
 9 years ago?  
 10 A. Yes.  
 11 Q. And what did he say when he  
 12 called you?  
 13 A. He just wanted to know what  
 14 I was doing in the way of advocacy, if  
 15 I had interest in that.  
 16 Q. And had you done any  
 17 advocacy, prior to talking to Pedraza?  
 18 A. Yeah, I had done a lot of  
 19 complaining.  
 20 Q. Meaning, like if you went to  
 21 a facility or store making a complaint  
 22 to them?  
 23 A. Absolutely.  
 24 Q. Any other type of advocacy  
 25 before you ran into or encountered

Page 80

1 Pedraza?  
 2 A. No.  
 3 Q. And is Pedraza someone who's  
 4 affiliated with Mr. Bacon's law office?  
 5 A. Not that I'm aware of.  
 6 Q. And how does Mr. Pedraza  
 7 earn his living?  
 8 A. He is an ADA expert.  
 9 Q. Meaning, he testifies in  
 10 cases for plaintiffs?  
 11 A. He also has many other  
 12 business interests.  
 13 Q. What are those?  
 14 A. Construction.  
 15 Q. I'm sorry, what?  
 16 A. Construction.  
 17 Q. Okay.  
 18 A. He's a contractor, a general  
 19 contractor.  
 20 Q. What's his address?  
 21 A. I don't know.  
 22 Q. What town does he live in?  
 23 A. A city outside of Miami.  
 24 Q. What city is that?  
 25 A. I don't know.

Page 81

1 Q. What's his phone number?  
 2 A. If you hold a minute, I can  
 3 tell you.  
 4 Q. Okay.  
 5 A. Are you ready?  
 6 Q. Yes.  
 7 A. It's 954.  
 8 Q. Okay.  
 9 A. 295.  
 10 Q. Okay.  
 11 A. 5933.  
 12 Q. Okay. And has Mr. Pedraza  
 13 served as an expert witness in some of  
 14 the cases in which you've been a  
 15 plaintiff?  
 16 A. Yes.  
 17 Q. All of them?  
 18 A. I'm not sure.  
 19 Q. Who pays him?  
 20 A. The defendants, as I believe  
 21 -- it depends on who wins the case.  
 22 Q. Excuse me?  
 23 A. I think it depends on who  
 24 wins the case.  
 25 Q. So he's not paid on an

21 (Pages 78 to 81)